

Minutes of S.C. Board of Health and Environmental Control Meeting January 6, 2011

The S.C. Board of Health and Environmental Control met on Thursday, January 6, 2011, at 10:00 a.m. in the S.C. Department of Health and Environmental Control Board Room, 2600 Bull Street, Columbia, S.C. (Attachment 0-1)

The following members were in attendance:

- Paul C. Aughtry, III, Chairman
Member-at-large
- Steven G. Kisner, Secretary
3rd District
- Henry C. Scott
2nd District
- Glenn A. McCall
5th District

Also in attendance were C. Earl Hunter, Commissioner, Carlisle Roberts, Jr., General Counsel, Ms. Lisa Longshore, Clerk, department staff and guests. (Attachment 0-2)

Mr. Aughtry stated notice of this meeting has been provided to all persons, organizations and news media, which have requested notification, as required by Section 30-4-80(e) of the South Carolina Code of Laws.

Item 1: Consideration of Board Minutes - December 9, 2010, minutes - For Approval (Attachment 1-1)

Mr. McCall moved, seconded by Mr. Scott, to approve the minutes as submitted for the December 9 Board call meeting. Approved.

Item 2: Monthly Award for Excellence for January 2011 (Attachment 2-1)

Commissioner Hunter recognized the following recipients:

- **Commissioner's Office** –Vasa Cate;
- **Environmental Quality Control** –Sean Torrens;
- **Health Regulation** –Nathaniel “Nate” Gauthier;
- **Health Services** – Fran Vincent;
- **Region 1 Public Health Office** – Misty Lee;
- **Region 2 Public Health Office** – Amelie Weems, RN;
- **Region 3 Public Health Office** – Gloria Harris, LPN;
- **Region 5 Public Health Office** – Administrative Staff, Bamberg County Health Department;
- **Region 6 Public Health Office** – Rebecca Eaddy;
- **Region 7 Public Health Office** – Ronald Spruill;
- **Region 8 Public Health Office** – Carolyn Jenkins, MS, RN.

The Board extended its thanks to all recipients.

Item 3: Orders issued by Ocean and Coastal Resource Management (Attachment 3-1)

Ms. Barbara Neale, Director, Regulatory, stated five (5) actions had been taken with penalties of \$6,025.

The Board accepted this item as information.

Item 4: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 4-1)

Ms. Belinda Bradshaw, Bureau of Radiological Health, stated five (5) actions had been taken with penalties of \$24,795.

The Board accepted this item as information.

Item 5: Administrative and Consent Orders issued by Environmental Quality Control (Attachment 5-1)

Ms. Robin Stephens, Compliance Assistance and Enforcement, stated fifty-four (54) actions had been taken with penalties of \$61,833.25.

The Board accepted this item as information.

Item 6: Appointment of nine (9) initial members to the Emergency Medical Services Advisory Council (Attachment 6-1)

Ms. Jennifer Paddock, Director, Division of Emergency Medical Services and Trauma, presented this item. The South Carolina Emergency Medical Services Act of 1976 established an Emergency Medical Services Advisory Council which is to be appointed by the South Carolina Board of Health and Environmental Control. This Advisory Council shall review standards and regulations for improving emergency medical services and make recommendations to the Department. Advisory Council members' terms of office are for a three (3) year period.

Mr. Scott moved, seconded by Mr. McCall, to approve the appointment of the following to the Emergency Medical Services Advisory Council for a period of three (3) years: James M. Smith, MD, Kelly Carlton, Garrett Clanton, II, MD, Scott Stoller, Michael Burgin, Derek Kenney, John Lawson, Richard Mann and Kelvin Oakley. Approved.

Item 7: Proposed New Regulation 61-118, Electronic Equipment Collection and Recovery, Legislative review is required (Attachment 7-1)

Mr. Kent Coleman, Director, Division of Solid Waste Planning and Recycling, presented this item to the Board. The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment

Collection and Recovery Act, codified at Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, established requirements for the sale, disposal and recovery of covered electronic devices, specifically for household computers, printers and televisions. The Act requires the Department of Health and Environmental Control staff to promulgate regulations to implement the provisions of the Act. To satisfy the requirements of the Act, staff is proposing new Regulation 16-118, Electronic Equipment Collection and Recovery. The proposed regulation establishes standards for labeling covered devices and for the registration of manufacturers and recoverers of covered devices. The proposed regulation establishes procedures for banning covered devices from solid waste landfills. The proposed regulation specifies fees relative to sales of computers and market share of sales for televisions. The proposed regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery, recycling or disposal of discarded devices and reporting requirements. The regulation will also establish fines for violations of the Act and the regulation. The proposed regulation would not take effect prior to July 1, 2011. Legislative review of the proposed regulation is required. A copy of the electronic presentation by staff was submitted for the record. (Attachment 7-2)

Mr. Scott moved, seconded by Mr. McCall, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, to conduct a staff informational forum, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. Approved.

Item 8: Proposed Repeal of Regulation 61-90, Minimum Standards for Licensing Chiropractic Facilities, Legislative review is required (Attachment 8-1)

Ms. Gwen Thompson, Assist Director, Division of Health Licensing, presented this item to the Board. Regulation 61-90 was promulgated April 27, 1984. Only a single facility was licensed under the regulation at any time. The facility's last license expired July 31, 2000. That facility subsequently closed. No other application to license an inpatient chiropractic facility has been received since that date. Act No. 278, effective July 1, 2010, amended the State Certification of Need and Health Facility Licensure Act, Section 44-7-110 et seq., S.C. Code of Laws, 1976, as amended. The amended Act at Section 44-7-260(A) deleted chiropractic inpatient facilities from the list of facilities the Department is authorized to license, thus making R.61-90 null and void. The State Administrative Procedures Act at Section 1-23-110 requires that agencies process a repeal of a regulation in the same manner as if pursuing promulgation of a new or amended regulation. In the interest of good government and efficiency, the Department is proposing to repeal R.61-90.

Mr. McCall moved, seconded by Mr. Kisner, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, to conduct a staff informational forum, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. Approved.

Item 9: Proposed Amendment of Regulation 61-15, Certification of Need for Health Facilities and Services, Legislative review is required (Attachment 9-1)

Ms. Beverly Brandt, Director, Bureau of Health Facilities and Services, presented this item to the Board. The Department proposes to revise R.61-15, Certification of Need for Health Facilities and Services, to incorporate applicable amendments from Act 278 of 2010 which amended Section 44-7-110 et seq., S.C. Code of Laws, 1976, as amended, effective July 1, 2010, and to make other revisions. The proposed amendments include the following, in addition to incorporating provisions from Act 278: increase filing, application and issuance fees for Certificate of Need applications; add provisions to submit information related to quality of patient care as part of Section 202.2.b; revise the Part A- Questionnaire; and, make other changes to R.61-15 to improve the overall quality of the regulation, such as deleting references to federal acts that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes.

Mr. Kisner moved, seconded by Mr. McCall, to grant initial approval to publish a Notice of Proposed Regulation in the State Register, to provide opportunity for public comment, to conduct a staff informational forum, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. Approved.

Item 10: Final Review Conference - Docket No. 10-RFR-134 - The Island Place, Ltd. (Attachment 10-1)

Mr. Roberts introduced the matter to the Board. Mr. Davis Whitfield-Cargile represented the Department staff. Ms. Leslie Riley represented the requestors, Jenna Walldorf, William L. Walker, Thomas R. Dion, Eloise Bradham, James B. Owens, Seymour Rosenthal, Mark George. Mr. Patrick Moore spoke on behalf of the South Carolina Coastal Conservation League. Mr. Jefferson Griffith, III, represented Island Place, Ltd./Ronald Blanchard.

After presentations by all parties, *Mr. Kisner moved, seconded by Mr. McCall, to go into Executive Session for the purpose of obtaining legal advice. Approved.*

While in Executive Session, no actions were taken.

Mr. Kisner moved, seconded by Mr. McCall, to find that this was not appealable decision. Approved.

Item 11: Handling of Request for Final Review requiring action by February 10, 2011 (RFR Docket No. 10-RFR-135 through 11-RFR-2) (Attachment 11-1)

Mr. Aughtry asked if anyone wished to conduct review conferences on any of the pending requests for review.

Mr. Scott moved, seconded by Mr. McCall, to decline to conduct any review conferences. Approved.

Item 12: Agency Affairs

Commissioner Hunter stated the Home Health Services FY2010 Annual Program Evaluation was provided as information to the Board as part of the requirement of Program Certification. (Attachment 12-1a)

Item 13: Legal Report

Mr. Roberts updated the Board on legal matters.

Mr. Scott moved, seconded by Mr. McCall, to adjourn. Approved.

All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,
Steven G. Kisner
Secretary of the Board

Minutes approved this 10th day of February 2011.

ATTEST:
Paul C. Aughtry, III
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 December 9, 2010 minutes
- 2-1 Monthly Award for Excellence Recipients for January 2011
- 3-1 Orders issued by the Office of Ocean and Coastal Resource Management
- 4-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 5-1 Administrative and Consent Orders issued by Environmental Quality Control
- 6-1 Appointment of nine (9) initial members to the Emergency Medical Services Advisory Council
- 7-1 Proposed New R.61-118, Electronic Equipment Collection and Recovery
- 7-2 PowerPoint presentation
- 8-1 Proposed Repeal of R.61-90, Minimum Standards for Licensing Chiropractic Facilities
- 9-1 Proposed Amendment of R.61-15, Certification of Need for Health Facilities and Services
- 10-1 FRC - Docket No. 10-RFR-134, The Island Place, Ltd.
- 11-1 Handling of Requests for Final Review requiring action by February 10, 2011, Docket No. 10-RFR-135 through Docket No. 11-RFR-2
- 12-1a Home Health Services FY2010 Annual Program Evaluation